

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

| | | |
|--------------------|---|-------------------------|
| IN RE: |) | Bankr. No. 08-40566 |
| |) | Chapter 13 |
| MARLIN R. LaCROIX, |) | |
| LAURIE B. LaCROIX, |) | MODIFIED PLAN |
| |) | DATED DECEMBER 30, 2008 |
| DEBTORS. |) | |

1. **Payments by Debtor to Trustee:** Debtors will pay the Trustee \$1,000.00 per month for 60 months (the "plan term"), for a total of \$60,000.00. Debtors will make the first payment on October 1, 2008, and the last payment on September 1, 2013. In addition thereto, Debtors will pay to the Trustee any tax refunds they receive for the tax years 2008, 2009, 2010, 2011 and 2012. Attached hereto as Exhibits are Schedule I, Schedule J and Business Income and Expenses.

2. **Payments by Trustee to Creditors:** After deducting his 10% fee, the Trustee will make the following payments, beginning the first month following confirmation of this plan (month "1"):

a. **Priority Claims:**

| Creditor | Claim | Interest | Payment | Months | Total |
|--------------------------|-------------|----------|----------|--------|-------------|
| A. Thomas Pokela, Esq. | \$3,000.00 | 0% | \$ | 1- | \$3,000.00 |
| Internal Revenue Service | \$42,180.71 | 0% | \$714.00 | 1-59 | \$42,126.00 |
| | | | \$ 54.71 | 60 | \$42,180.71 |
| SD Dept of Labor | \$2,058.37 | 0% | \$ 34.50 | 1-59 | \$1,035.50 |
| | | | \$ 22.87 | 60 | \$2,058.37 |

b. **Secured Claims in Default:** Debtors have previously had a foreclosure on their home stead and are presently renting the property where they are living.

c. **Other Secured Claims:** None.

d. **Unsecured Claims:** After making the payments to priority and secured creditors described above, the Trustee will distribute the balance of the payments made by the Debtor to the holders of timely-filed unsecured claims. If all unsecured creditors known to Debtor timely file proofs of claim, each unsecured creditor will be paid approximately 2% of its claim.

3. **Direct Payment of Unimpaired Claims:** Debtor will make all required payments on the following unimpaired claim(s) until paid in full according to the terms of the original agreement(s) between Debtor and the creditor(s)

| Creditor | Claim | Payment | Frequency |
|---------------------------|-------------|------------|-----------|
| CitiCapital | \$20,000.00 | \$569.00 | Monthly |
| Citizens Auto Finance | \$15,000.00 | \$398.23 | Monthly |
| First National Bank of SD | \$61,547.00 | \$1,860.00 | Monthly |

These payments will be made DIRECTLY to the creditor, not to the Trustee, and will not be subject to the Trustee's supervision or control. The creditor will receive no payment in any amount from the Trustee on account of this claim.

4. **Disbursements by Trustee.** The Trustee shall disburse available funds first to all scheduled installments in the following order: administrative expenses, including attorney fees, unsecured priority claims, and secured claims. Thereafter, the Trustee shall disburse available funds to claims without installment payment schedules in the following order: administrative expenses, including attorney fees, unsecured priority claims, and unsecured non-priority claims.

5. **Other provisions:** Debtors will timely file all post petition federal tax returns and timely pay all post petition federal taxes.

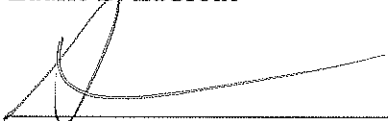
6. **Disposable Income:** All of the debtors' disposable income to be received in the five-year period beginning on October 1, 2008, will be applied to make payments under this plan.

7. **Liquidation Analysis:** Attached hereto and incorporated herein by reference is a liquidation analysis that demonstrates that creditors will receive as much or more than they would if Debtor's non-exempt assets were liquidated in a Chapter 7 bankruptcy.

Dated this 30 day of December, 2008.


Marlin R. LaCroix


Laurie B. LaCroix


A. Thomas Pokela
Attorney at Law
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Sioux Falls, SD 57101-2621
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LIQUIDATION ANALYSIS AND STATEMENT OF VALUE OF ENCUMBERED PROPERTY

MARLIN R. AND LAURIE B. LaCROIX

| TYPE OF PROPERTY | FAIR MARKET VALUE | LIENS | DEBTORS SHARE OF EQUITY | EXEMPT AMOUNT | NON- EXEMPT AMOUNT |
|---|----------------------|-------------|-------------------------------|------------------|--------------------------|
| Personal Property | \$7,526.29 | \$0.00 | \$7,526.29 | \$7,526.29 | \$0.00 |
| Retirement Account | \$8,787.56 | \$0.00 | \$8,787.56 | \$8,787.56 | \$0.00 |
| 1998 Jeep Grand Cherokee | \$1,500.00 | \$1,800.00 | \$0.00 | \$0.00 | \$0.00 |
| 2002 Chevy Pickup & Ditchwitch Trencher | \$20,000.00 | \$19,640.22 | \$359.78 | \$359.78 | \$0.00 |
| 2002 GMC Yukon XL | \$11,000.00 | \$15,042.05 | \$0.00 | \$0.00 | \$0.00 |
| 1988 Mack Dump Truck, 1994 Case Wheel loader, 1994 JCB Tractor Backhoe, 2000 Redi Haul Trl, 2005 Road King Trl, Generator, Homemade Trl, Mikosa Packer, Misc. Tools, Pumps (2), Pipe & Supplies | \$67,725.00 | \$41,907.37 | \$25,817.63 | \$2,000.00 | \$23,817.63 |
| 2005 Bobcat Skid Loader | \$21,000.00 | \$20,229.21 | \$770.79 | \$770.79 | \$0.00 |
| Amount available upon liquidation | | | \$23,817.63 | | |
| Less administrative expenses and costs | | | \$4,000.00 | | |
| Less priority claims | | | \$8,000.00 | | |
| Amount available in Chapter 7 | | | \$11,817.63 | | |

B6I (Official Form 6I) (12/07)

In re **Marlin Ray LaCroix Laurie Beth LaCroix**Case No. **08-40566**

Debtors

(If known)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

| | | |
|---|---|--|
| Debtor's Marital Status: Married | DEPENDENTS OF DEBTOR AND SPOUSE | |
| | RELATIONSHIP(S): | AGE(S): |
| | Son | 13 |
| | Son | 19 |
| Employment: | DEBTOR | SPOUSE |
| Occupation | Construction | Cook |
| Name of Employer | LaCroix Construction & Excavation | Yankton School District |
| How long employed | | 6 years |
| Address of Employer | 43394 310th Street Yankton, SD 57078 | 1900 Ferdig Yankton, SD 57078 |

INCOME: (Estimate of average or projected monthly income at time case filed)

DEBTOR

SPOUSE

| | | |
|---|---------------------|--------------------|
| 1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly.) | \$ <u>0.00</u> | \$ <u>1,328.00</u> |
| 2. Estimate monthly overtime | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 3. SUBTOTAL | \$ <u>0.00</u> | \$ <u>1,328.00</u> |
| 4. LESS PAYROLL DEDUCTIONS | | |
| a. Payroll taxes and social security | \$ <u>0.00</u> | \$ <u>90.00</u> |
| b. Insurance | \$ <u>0.00</u> | \$ <u>147.00</u> |
| c. Union dues | \$ <u>0.00</u> | \$ <u>0.00</u> |
| d. Other (Specify) Retirement | \$ <u>0.00</u> | \$ <u>72.00</u> |
| 5. SUBTOTAL OF PAYROLL DEDUCTIONS | \$ <u>0.00</u> | \$ <u>309.00</u> |
| 6. TOTAL NET MONTHLY TAKE HOME PAY | \$ <u>0.00</u> | \$ <u>1,019.00</u> |
| 7. Regular income from operation of business or profession or farm (Attach detailed statement) | \$ <u>21,917.00</u> | \$ <u>0.00</u> |
| 8. Income from real property | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 9. Interest and dividends | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above. | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 11. Social security or other government assistance (Specify) | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 12. Pension or retirement income | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 13. Other monthly income (Specify) | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 14. SUBTOTAL OF LINES 7 THROUGH 13 | \$ <u>21,917.00</u> | \$ <u>0.00</u> |
| 15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14) | \$ <u>21,917.00</u> | \$ <u>1,019.00</u> |
| 16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15) | \$ <u>22,936.00</u> | |

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document.:

B6I (Official Form 6I) (12/07) - Cont.

In re Marlin Ray LaCroix Laurie Beth LaCroix

Case No. 08-40566

Debtors

(If known)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

NONE

In re Marlin Ray LaCroix Laurie Beth LaCroix
Debtors

Case No. 08-40566
(If known)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made biweekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

| | | | |
|--|-----------------------|----|------------------|
| 1. Rent or home mortgage payment (include lot rented for mobile home) | | \$ | <u>750.00</u> |
| a. Are real estate taxes included? | Yes _____ No <u>✓</u> | | |
| b. Is property insurance included? | Yes _____ No <u>✓</u> | | |
| 2. Utilities: a. Electricity and heating fuel | | \$ | <u>143.00</u> |
| b. Water and sewer | | \$ | <u>0.00</u> |
| c. Telephone | | \$ | <u>0.00</u> |
| d. Other Phone, Cable & Internet | | \$ | <u>142.00</u> |
| Water & Garbage | | \$ | <u>45.22</u> |
| 3. Home maintenance (repairs and upkeep) | | \$ | <u>0.00</u> |
| 4. Food | | \$ | <u>600.00</u> |
| 5. Clothing | | \$ | <u>0.00</u> |
| 6. Laundry and dry cleaning | | \$ | <u>0.00</u> |
| 7. Medical and dental expenses | | \$ | <u>205.00</u> |
| 8. Transportation (not including car payments) | | \$ | <u>320.00</u> |
| 9. Recreation, clubs and entertainment, newspapers, magazines, etc. | | \$ | <u>200.00</u> |
| 10. Charitable contributions | | \$ | <u>120.00</u> |
| 11. Insurance (not deducted from wages or included in home mortgage payments) | | | |
| a. Homeowner's or renter's | | \$ | <u>20.00</u> |
| b. Life | | \$ | <u>62.90</u> |
| c. Health | | \$ | <u>0.00</u> |
| d. Auto | | \$ | <u>42.52</u> |
| e. Other _____ | | \$ | <u>0.00</u> |
| 12. Taxes (not deducted from wages or included in home mortgage payments) | | | |
| (Specify) _____ | | \$ | <u>0.00</u> |
| 13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan) | | | |
| a. Auto | | \$ | <u>398.00</u> |
| b. Other _____ | | \$ | <u>0.00</u> |
| 14. Alimony, maintenance, and support paid to others | | \$ | <u>0.00</u> |
| 15. Payments for support of additional dependents not living at your home | | \$ | <u>0.00</u> |
| 16. Regular expenses from operation of business, profession, or farm (attach detailed statement) | | \$ | <u>18,551.57</u> |
| 17. Other Misc. | | \$ | <u>225.00</u> |

18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

\$ 21,825.21

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

20. STATEMENT OF MONTHLY NET INCOME

| | | |
|--|----|------------------|
| a. Average monthly income from Line 15 of Schedule I | \$ | <u>22,936.00</u> |
| b. Average monthly expenses from Line 18 above | \$ | <u>21,825.21</u> |
| c. Monthly net income (a. minus b.) | \$ | 1,110.79 |

UNITED STATES BANKRUPTCY COURT
District of South Dakota

In re: **Marlin Ray LaCroix**

Laurie Beth LaCroix

Case No. 08-40566Chapter **13**

BUSINESS INCOME AND EXPENSES

FINANCIAL REVIEW OF THE DEBTOR'S BUSINESS (NOTE: ONLY INCLUDE information directly related to the business operation.)

PART A - GROSS BUSINESS INCOME FOR PREVIOUS 12 MONTHS:

1. Gross Income For 12 Months Prior to Filing: \$ 27,758.33

PART B - ESTIMATED AVERAGE FUTURE GROSS MONTHLY INCOME:

2. Gross Monthly Income: \$ 21,917.00

PART C - ESTIMATED FUTURE MONTHLY EXPENSES:

| | |
|---|----------------|
| 3. Net Employee Payroll (Other Than Debtor) | \$ <u>0.00</u> |
| 4. Payroll Taxes | <u>0.00</u> |
| 5. Unemployment Taxes | <u>195.00</u> |
| 6. Worker's Compensation | <u>0.00</u> |
| 7. Other Taxes | <u>182.57</u> |
| 8. Inventory Purchases (Including raw materials) | <u>0.00</u> |
| 9. Purchase of Feed/Fertilizer/Seed/Spray | <u>0.00</u> |
| 10. Rent (Other than debtor's principal residence) | <u>350.00</u> |
| 11. Utilities | <u>70.00</u> |
| 12. Office Expenses and Supplies | <u>0.00</u> |
| 13. Repairs and Maintenance | <u>0.00</u> |
| 14. Vehicle Expenses | <u>0.00</u> |
| 15. Travel and Entertainment | <u>0.00</u> |
| 16. Equipment Rental and Leases | <u>0.00</u> |
| 17. Legal/Accounting/Other Professional Fees | <u>25.00</u> |
| 18. Insurance | <u>379.00</u> |
| 19. Employee Benefits (e.g., pension, medical, etc.) | <u>0.00</u> |
| 20. Payments to Be Made Directly By Debtor to Secured Creditors For | |

Pre-Petition Business Debts (Specify):

None

21. Other (Specify):

| | |
|--------------------------------------|-----------------|
| Cell phone | <u>120.00</u> |
| Fuel & Materials | <u>9,690.00</u> |
| Labor | <u>4,200.00</u> |
| Bobcat | <u>600.00</u> |
| 1st Nat'l Bank/Equit.Bus.Loan | <u>1,860.00</u> |
| Federal Employment Tax | <u>880.00</u> |

22. Total Monthly Expenses (Add items 3 - 21) \$ 18,551.57

PART D - ESTIMATED AVERAGE NET MONTHLY INCOME:

23. AVERAGE NET MONTHLY INCOME (Subtract Item 22 from Item 2) \$ 3,365.43